

***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-21 are pending in the application, with claims 1 and 7 being the independent claims. Claims 1-9 and 12-21 are sought to be amended. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

***Comments Regarding Amendments to the Claims***

The Office Action at page three includes a comment that:

[r]egarding Claim 1, the weather-based decision system as claimed merely comprises a plurality of subsystems (filters, components, programs, code, etc.) **for** performing some action (e.g. "a confidence level filter *for* assigning a confidence level...") however the system does not actually perform the actions (assignments). For the purposes of examination examiner assumes the applicant will amend the claim to recite that THE weather-based system performs the actions/assignments (e.g., "a confidence level filter ~~for assigning~~ assigns a confidence level...").

Applicants have amended claim 1 and other effected claims to replace such phrases as "for assigning" with such phrases as "configured to assign". The latter phrases particularly point out and distinctly claim the subject matter which Applicants regard as their invention.

35 U.S.C. § 271(a) provides that (emphasis added): "[e]xcept as otherwise provided in this title, whoever without authority *makes*, uses, *offers to sell*, or *sells* any patented

invention, within the United States or **imports** into the United States any patented invention during the term of the patent therefor, infringes the patent."

Applicants contend that it is unlikely that anyone would make, offer to sell, sell, or import a system within the scope of the present invention in which a confidence level filter **assigns** a confidence level, but that it is likely that someone would make, offer to sell, sell, or import a system within the scope of the present invention in which a confidence level filter **is configured to assign** a confidence level. That is to say, amending the claims to replace such phrases as "for assigning" with such phrases as "assigns" would exclude anyone who made, offered for sale, sold, or imported a system within the scope of the present invention from committing an act of infringement **unless such system was operating** when such acts of making, offering for sale, selling, or importing occurred. Accordingly, amending the claims to replace such phrases as "for assigning" with such phrases as "configured to assign" is proper.

Other amendments to the claims are to correct antecedent basis and other errors.

### ***Rejections Under 35 U.S.C. § 103***

Claims 1-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0004780 to Smith *et al.* (hereinafter "Smith") in view of U.S. Patent No. 5,832,456 to Fox *et al.* (hereinafter "Fox"). (See Office Action at p. 3.) Applicants respectfully traverse these rejections.

Fox should be removed as a prior art reference under 35 U.S.C. § 103(a). The present application and Fox were, at the time the invention of the present application was made,

owned by Planalytics, Inc. On its face Fox is assigned to Strategic Weather Services. However, on March 28, 2000, Strategic Weather Services, Inc. changed its name to Planalytics, Inc. Attached to this pleading is a copy of the Articles of Amendment-Domestic Business Corporation that effected the change in name. (*See* 35 U.S.C. § 103(c), M.P.E.P. § 706.02(l)(1), and M.P.E.P. § 706.02(l)(2)(II).)

The Office Action at pages seven and eight concedes that "Smith et al. does not expressly teach that weather driven data indicates how a business activity is influenced by one ore more weather elements as now claimed." Accordingly, Applicants request that the rejections under 35 U.S.C. § 103(a) be reconsidered and withdrawn for claims 1-21 and that these claims be passed to allowance.

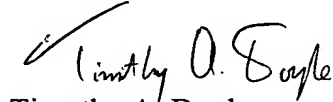
### ***Conclusion***

All of the stated grounds of rejection have been properly traversed. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

A handwritten signature in black ink, appearing to read "Timothy A. Doyle". The signature is written in a cursive, flowing style.

Timothy A. Doyle  
Attorney for Applicants  
Registration No. 51,262

Date: 3 FEB 06

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Secretary of the Commonwealth

## ARTICLES OF AMENDMENT-DOMESTIC BUSINESS CORPORATION

DSCB:15-1918 (Rev 91)

In compliance with the requirements of 15 Pa.C.S. § 1916 (relating to articles of amendment), the undersigned business corporation, desiring to amend its Articles, hereby states that:

1. The name of the corporation is: Strategic Weather Services, Inc.
2. The (a) address of this corporation's current registered office in this Commonwealth or (b) name of its commercial registered office provider and the county of venue is (the Department is hereby authorized to correct the following information to conform to the records of the Department):

|                       |       |              |       |         |
|-----------------------|-------|--------------|-------|---------|
| (a) 1325 Morris Drive | Wayne | Pennsylvania | 19087 | Chester |
| Number and Street     | City  | State        | Zip   | County  |

(b) c/o: \_\_\_\_\_  
Name of Commercial Registered Office Provider \_\_\_\_\_  
County \_\_\_\_\_

For a corporation represented by a commercial registered office provider, the county in (b) shall be deemed the county in which the corporation is located for venue and official publication purposes.

3. The statute by or under which it was incorporated is: PA Business Corporation Law of 1988

4. The date of its incorporation is: August 29, 1998

5. (Check, and if appropriate complete, one of the following):

☒ The amendment shall be effective upon filing these Articles of Amendment in the Department of State.

☐ The amendment shall be effective on: \_\_\_\_\_ at \_\_\_\_\_  
Date Hour

6. (Check one of the following):

☐ The amendment was adopted by the shareholders (or members) pursuant to 15 Pa.C.S. § 1914(a) and (b).

☒ The amendment was adopted by the board of directors pursuant to 15 Pa.C.S. § 1914(c).

7. (Check, and if appropriate complete, one of the following):

☒ The amendment adopted by the corporation, set forth in full, is as follows:

Strategic Weather Services, Inc. changes its name to Planalytics, Inc.

The amendment adopted by the corporation is set forth in full in Exhibit A attached hereto and made a part hereof.

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8. (Check if the amendment restates the Articles):

☒ The restated Articles of Incorporation supersede the original Articles and all amendments thereto.

IN TESTIMONY WHEREOF, the undersigned corporation has caused these Articles of Amendment to be signed by a duly authorized officer thereof this 23rd day of March, 2000.

Strategic Weather Services, Inc.

BY: 

Frederic D. Fox

TITLE: President

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